

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

STEPHANIE LUKIS and ROBERT)	
FISCHER, individually and on behalf of all)	
others similarly situated,)	
)	Case No. 1:19-cv-04892
Plaintiffs,)	
)	The Honorable Gary Feinerman
v.)	
)	
INSTANT CHECKMATE, LLC,)	
)	
Defendant.)	

JOINT INITIAL STATUS REPORT

Pursuant to the Court’s standing order, Plaintiffs Stephanie Lukis and Robert Fischer (“Plaintiffs”) and Defendant Instant Checkmate, LLC (“Instant Checkmate”), by and through their undersigned counsel, state that they have conferred pursuant to Rule 26(f) of the Federal Rules of Civil Procedure and hereby submit this Initial Status Report.

A. Nature of the Case

1. This is a putative class action lawsuit initially filed by Plaintiffs in the Circuit Court of Cook County, Illinois, County Department, Chancery Division, styled *Stephanie Lukis & Robert Fischer v. Instant Checkmate, LLC*, Case No. 2019-CH-07517, removed to the Northern District of Illinois on July 22, 2019 by Defendant Instant Checkmate (ECF Dkt. 1), and later reassigned to this Court on August 8, 2019 (ECF Dkt. 12). Plaintiffs are represented by Roberto Luis Costales and William Henry Beaumont of Beaumont Costales, and Mr. Costales will serve as Plaintiffs’ lead trial counsel. Defendant is represented by Damon W.D. Wright of Venable LLP and Natalie Spears of Dentons US, LLP, and Mr. Wright and Ms. Spears will serve as Defendant’s lead trial counsel.

2. This court has jurisdiction pursuant to the Class Action Fairness Act (“CAFA”), codified at 28 U.S.C. §§ 1332(d), which grants federal district courts original jurisdiction over a civil class action in which any plaintiff is a citizen of a state different from any defendant and the aggregate amount in controversy for all class members exceeds \$5,000,000.

3. Plaintiffs’ complaint alleges that Instant Checkmate violated the Illinois Right of Publicity Act, 765 Ill. Comp. Stat. (“ILCS”) 1075/1 *et seq.* (the “Act”), by providing “limited free preview[s]” of its search results which contain the names of Illinois residents. (ECF Dkt. No. 1, Ex. A at ¶ 10.) On behalf of the putative class, Plaintiffs’ complaint seeks: “injunctive and other equitable relief as necessary to protect the interest of the Class”; “the greater of actual damages, including the profits derived from the unauthorized use of same, or statutory damages in the amount of \$1,000 per violation of the members of the class”; and “punitive damages where applicable.” (ECF Dkt. No. 1 at 10, Prayer for Relief 3-5.)

4. Instant Checkmate filed a Motion to Dismiss this action on August 21, 2019. (ECF Dkt. 14.) Instant Checkmate’s position, as noted in its’ Motion, is that Judge Shah has previously considered the identical allegations raised by Plaintiffs’ Complaint, examined IRPA’s plain language and well-established case law, and determined that the claims asserted by Plaintiffs did not and could not state a claim for relief. *See Dobrowolski v. Intelius, Inc.*, No. 17-cv-1406, 2017 WL 3720170, at *9 (N.D. Ill. Aug. 29, 2017); *Dobrowolski v. Intelius, Inc.*, No. 17-cv-1406, Dkt. 46 at 5 (N.D. Ill. May 21, 2018).

5. This case presents the following legal and factual issues:

Legal Issues:

- Whether any alleged use by Defendant of Plaintiffs’ identities was not for “commercial purposes” within the meaning of the Act, 765 ILCS 1075/5 & 1075/30(a), *et seq.*;
- Whether the Act “does not apply” to any alleged use of Plaintiffs’ identities because the alleged use(s) were in “promotional materials, advertisements, or commercial announcements” for alleged use(s) with “non-commercial purposes, 765 ILCS 1075/35(b)(2) & (4);
- Whether the Act “does not apply” to any alleged use of Plaintiffs’ identities because the alleged use(s) were in “promotional materials, advertisements, or commercial announcements” for uses in a work that does not itself constitute a commercial advertisement, 765 ILCS 1075/35(b)(1) & (4); and
- Whether Defendant used Plaintiffs’ “identit[ies]” under the meaning of the Act, 765 ILCS 1075/5.

Factual Issues:

- Whether and how Defendant allegedly used Plaintiffs’ identities.
 - Whether a class can properly be certified that meets the typicality, commonality, and other requirements for class certification.
 - Whether Plaintiffs suffered any damages as a result of any alleged use(s).
6. Instant Checkmate was served with process on June 28, 2019.

B. Proceedings to Date

1. To date, the only substantive ruling has been the reassignment of this case to this Court. (ECF Dkt. 12.)

2. The only motion currently pending is Instant Checkmate's Motion to Dismiss filed August 21, 2019. (ECF Dkt. 14.)

C. Discovery and Case Plan

The Parties agree and request that all discovery and the Parties' Joint Discovery and Case Plan be stayed pending the resolution of Instant Checkmate's Motion to Dismiss, filed August 21, 2019 (ECF Dkt. 14). To avoid duplication, the Parties adopt the positions stated in Whitepages, Inc.'s Unopposed Motion to Stay Discovery, filed on August 21, 2019 (No. 19-cv-04871, ECF Dkt. 19).

D. Settlement

1. To date, the Parties have not engaged in settlement discussions.
2. At this time, the Parties do not request a settlement conference.

E. Magistrate Judge

1. The Parties do not consent to proceed before a magistrate judge for all purposes.
2. To date, no matters have been referred to the magistrate judge assigned to this case.

Dated: August 22, 2019

Respectfully submitted,

DENTONS US LLP

/s/ Natalie J. Spears

One of the attorneys for Defendant

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of August 2019 a copy of the foregoing was filed electronically via the ECF filing system.

/s/ Natalie J. Spears